

MATTER OF COSTARELLI

In Deportation Proceedings

A-15645606

*Decided by Board April 14, 1970*

A native and citizen of Italy who entered the United States as a crewman is eligible to apply for the benefits of section 1 of the Act of November 2, 1966 as the spouse of a native and citizen of Cuba within the provisions of section 1 of that Act.

CHARGE:

Order: Act of 1952—Section 241(a) (2) [8 U.S.C. 1251(a) (2)]—Nonimmigrant crewman—remained longer.

ON BEHALF OF RESPONDENT: Irving I. Freedman, Esquire  
134 North LaSalle Street  
Chicago, Illinois 60602

The case is before us upon motion by the respondent to reopen the proceedings to afford him an opportunity to apply for adjustment of status to that of a permanent resident pursuant to section 1 of the Act of November 2, 1966, Public Law 89-732, 80 Stat. 1161 (commonly referred to as the Cuban Refugee Act). A similar motion previously filed on April 16, 1968 was denied by us when it appeared that the respondent was not statutorily eligible for having his status adjusted under this provision of law because he had not resided in the United States for a period of two years as required by the statute.

The respondent is a 29-year-old married male alien, a native and citizen of Italy, who last entered the United States as a crewman on March 14, 1967, at which time he was granted permission to remain for a period of 29 days. When he did not leave within that period of time, he was given the privilege of voluntarily departing prior to June 24, 1967. He has, however, remained in the United States.

The respondent's wife is a native and citizen of Cuba who entered the United States on June 14, 1966, at which time she was